

ASSEMBLY BILL

No. 594

Introduced by Assembly Member Hueso

February 20, 2013

An act to amend Sections 541.5 and 5080.42 of the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 594, as introduced, Hueso. State parks: operating agreements.

Existing law prohibits the Department of Parks and Recreation from closing or proposing to close a state park in the 2012–2013 or 2013–2014 fiscal year. Existing law authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the purposes of operating the entirety of a park unit, as identified by the director of the department, to the extent the operating agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would provide that the prohibition to close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year does not limit or affect the department's authority to enter into an operating agreement during the 2012–13 or 2013–14 fiscal year, for purposes of the operation of the entirety of a state park, as agreed to by the director, during the 2012–13 or 2013–14 fiscal year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 541.5 of the Public Resources Code is amended to read:

541.5. (a) The department shall not close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year. The commission and the department shall recommend all necessary steps to establish a sustainable funding strategy for the department to the Legislature on or before January 1, 2015.

(b) There is hereby appropriated twenty million five hundred thousand dollars (\$20,500,000) to the department from the State Parks and Recreation Fund, which shall be available for encumbrance for the 2012–13 and 2013–14 fiscal years, to be expended as follows:

(1) Ten million dollars (\$10,000,000) shall be available to provide for matching funds pursuant to subdivision (c).

(2) Ten million dollars (\$10,000,000) shall be available for the department to direct funds to parks that remain at risk of closure or that will keep parks open during the 2012–13 and 2013–14 fiscal years. Priority may be given to parks subject to a donor or operating agreement or other contractual arrangement with the department.

(3) Up to five hundred thousand dollars (\$500,000) shall be available for the department to pay for ongoing audits and investigations as directed by the Joint Legislative Audit Committee, the office of the Attorney General, the Department of Finance, or other state agency.

(c) The department shall match on a dollar-for-dollar basis all financial contributions contributed by a donor pursuant to an agreement for the 2012–13 fiscal year for which the department received funds as of July 31, 2013, and for agreements entered into in the 2013–14 fiscal year. These matching funds shall be used exclusively in the park unit subject to those agreements.

(d) The department shall notify the Joint Legislative Budget Committee in writing not less than 30 days prior to the expenditure of funds under this section of the funding that shall be expended, the manner of the expenditure, and the recipient of the expenditure.

(e) *The prohibition to close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year, pursuant to paragraph (a), does not limit or affect the department's authority to enter into an operating agreement, pursuant to Section 5080.42, during the*

1 2012–13 or 2013–14 fiscal year, for purposes of the operation of
2 the entirety of a state park during the 2012–13 or 2013–14 fiscal
3 year.

4 SEC. 2. Section 5080.42 of the Public Resources Code is
5 amended to read:

6 5080.42. (a) Notwithstanding any other provision of this
7 article, the department may enter into an operating agreement with
8 a qualified nonprofit organization for the development,
9 improvement, restoration, care, maintenance, administration, or
10 operation of a unit or units, or portion of a unit, of the state park
11 system, as ~~identified~~ *agreed to* by the director. If the department
12 enters into an operating agreement that involves the operation of
13 the entirety of a park unit, that agreement may be entered into
14 pursuant to this section only to the extent that the agreement would
15 enable the department to avoid closure of a unit or units of the
16 state park system that may otherwise be subject to closure. *The*
17 *prohibition on park closures, pursuant to subdivision (a) of Section*
18 *541.5, does not limit the department's authority to enter into an*
19 *operating agreement pursuant to this section, as provided in*
20 *subdivision (e) of Section 541.5.* The department may only enter
21 into an operating agreement that involves the operation of the
22 entirety of a park unit for no more than 20 park units. An operating
23 agreement with a qualified nonprofit organization shall include,
24 but shall not be limited to, the following conditions:

25 (1) The district superintendent for the department shall provide
26 liaison with the department, the nonprofit organization, and the
27 public.

28 (2) The nonprofit organization shall annually submit a written
29 report to the department regarding its operating activities during
30 the prior year and shall make copies of the report available to the
31 public upon request. The report shall be available on the Internet
32 Web sites of both the department and the nonprofit organization.
33 The report shall include a full accounting of all revenues and
34 expenditures for each unit of the state park system that the
35 nonprofit organization operates pursuant to an operating agreement.

36 (3) (A) Except as provided in subparagraph (B), all revenues
37 that the qualified nonprofit organization receives from a unit shall
38 be expended only for the care, maintenance, operation,
39 administration, improvement, or development of the unit. The
40 qualified nonprofit organization may additionally contribute in-kind

1 services and funds raised from outside entities for the care,
2 maintenance, operation, administration, improvement, or
3 development of the unit.

4 (B) If the qualified nonprofit organization determines that the
5 revenues it has received from a unit are in excess of the revenues
6 that are needed for the care, maintenance, operation, administration,
7 improvement, or development of that unit, and that these funds
8 are not already specified for or committed to specific purposes
9 pursuant to an existing agreement or contract restricting the use
10 of those funds, the qualified nonprofit organization may dedicate
11 those excess revenues to another state park unit for that unit's care,
12 maintenance, operation, administration, improvement, or
13 development.

14 (4) No General Fund moneys shall be provided to a nonprofit
15 organization to subsidize the operation or maintenance of a park
16 unit. This paragraph applies to state parks, the full operation of
17 which are turned over to a nonprofit organization, but does not
18 apply to or preclude the department from entering into agreements
19 with nonprofit organizations to operate a portion of a state park
20 unit, or from entering into comanagement agreements with
21 nonprofit organizations that involve the sharing of operational and
22 financial responsibilities for the park unit and that have the effect
23 of reducing state costs. This paragraph does not apply to park
24 entrance fees, concession revenues, or any other revenues generated
25 within a park operated by a nonprofit organization pursuant to this
26 section.

27 (b) An operating agreement entered into pursuant to subdivision
28 (a) shall honor the existing term of a current concession contract
29 for the state park unit subject to the operating agreement.

30 (c) An operating agreement entered into pursuant to subdivision
31 (a) shall specify the duties that the nonprofit organization shall be
32 responsible for carrying out relative to management and protection
33 of natural, historical, and cultural resources, and shall identify
34 those management duties that shall continue to be conducted by
35 the department, so that all core operations of the park are
36 delineated. Scientific, architectural, and engineering functions that
37 require special expertise or professional training shall only be
38 conducted by or under the supervision of qualified persons with
39 applicable expertise or training and subject to oversight by the
40 department.

1 (d) This section does not supersede the requirements of Section
2 5019.53 regarding the protection of natural, scenic, cultural, and
3 ecological values.

4 (e) The nonprofit organization and the district superintendent
5 for the department shall, following submittal of the annual report
6 pursuant to subdivision (a), hold a joint public meeting for
7 discussion of the report.

8 (f) If the department intends to enter into an operating agreement
9 for the development, improvement, restoration, care, maintenance,
10 administration, or operation of a unit or units, or a portion of a
11 unit, the department shall notify the Member of the Legislature in
12 whose district the unit is located, the Chair of the Senate Committee
13 on Natural Resources and Water, the Chair of the Assembly
14 Committee on Water, Parks and Wildlife, and the chairs of the
15 Assembly and Senate budget committees of that intention. The
16 notification shall include estimated operating costs and revenues
17 and core duties and responsibilities that are likely to be assigned
18 to the nonprofit organization and the department.

19 (g) For purposes of this section, a qualified nonprofit
20 organization is an organization that is all of the following:

21 (1) An organization that is exempt from taxation pursuant to
22 Section 501(c)(3) of the Internal Revenue Code.

23 (2) An organization that has as its principal purpose and activity
24 to provide visitor services in state parks, facilitate public access
25 to park resources, improve park facilities, provide interpretive and
26 educational services, or provide direct protection or stewardship
27 of natural, cultural, or historical lands, or resources.

28 (3) An organization that is in compliance with the Supervision
29 of Trustees and Fundraisers for Charitable Purposes Act, Article
30 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
31 Division 3 of Title 2 of the Government Code.

32 (h) (1) Notwithstanding Section 10231.5 of the Government
33 Code, the department shall provide a report to the Legislature, on
34 a biennial basis, of the status of operating agreements it has entered
35 into pursuant to this section. The report shall include a list of units
36 of the state park system with operating agreements, discussion of
37 the management and operations of each unit subject to an operating
38 agreement, an accounting of the revenues and expenditures incurred
39 under each operating agreement, and an assessment of the benefit

1 to the state from operating agreements entered into pursuant to
2 this section.

3 (2) A report submitted pursuant to paragraph (1) shall be
4 submitted in compliance with Section 9795 of the Government
5 Code.

6 (i) This section shall remain in effect only until January 1, 2019,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2019, deletes or extends that date.